

Court of Appeals, State of Michigan

ORDER

People of MI v Preston Taylor

Docket No. 259762

LC No. 04-500050

Michael J. Talbot
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

The Court orders, pursuant to MCR 7.205(D)(2), that the circuit court's November 2, 2004 order affirming the district court's dismissal of felon in possession of a firearm and felony firearm charges is REVERSED. In reviewing a bindover decision, this Court does not defer to the circuit court's decision to any extent; instead, this Court reviews the district court's decision to determine whether it abused its discretion. See *People v Greene*, 255 Mich App 426, 434; 661 NW2d 616 (2003). For purposes of preliminary examination, the proofs adduced must only establish probable cause. *People v Goecke*, 457 Mich 442, 469; 579 NW2d 868 (1998). In this case, the district court ruled that there was insufficient evidence that defendant possessed a firearm. Possession of a firearm may be actual or constructive, and may be proved by circumstantial evidence. *People v Burgenmeyer*, 461 Mich 431, 437; 606 NW2d 645 (2000). In the case at bar, the evidence presented at the preliminary examination was sufficient to establish probable cause to believe that defendant, a convicted felon, was in possession of a firearm. The district court abused its discretion in denying the bindover.

This matter is REMANDED to circuit court for the purpose of remanding to district court for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 18 2005

Date

Sandra Schultz Mengel
Chief Clerk